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**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ARIZONA**

United States of America,

Plaintiff,

vs.

Mehrzaad Asadi-Eidivand,

Defendant.

No. CR-25-00931-DGC

**APPEAL OF MAGISTRATE
 JUDGE'S DETENTION ORDER
 (DKT. 9)**

Defendant Mehrzaad Asadi-Eidivand, through undersigned counsel, moves this Court to review the Order of Detention, issued by Magistrate Judge Bachus on July 1, 2025. Dkt. 17. Mr. Asadi-Eidivand asks the Court to reconsider the findings of the lower court and order his release on conditions, because there are conditions available to reasonably assure Mr. Asadi-Eidivand's appearance at future proceedings and safety to the community. Mr. Asadi-Eidivand further requests that this Court set a hearing to Review the Detention Order of the Magistrate Judge pursuant to 18 U.S.C. § 3145(b), which requires this motion be determined "promptly."

I. Factual and Procedural Posture

Mr. Asadi-Eidivand is from Iran—and he is scared to return to Iran. He came to the United States seeking asylum and in fear for his life. He is an atheist who opposes Islam as well as the Iranian theocratic government. Due to his beliefs, he is subject to torture and death in Iran. He applied for asylum and appealed the denial of his case. After he married, he also attempted to adjust for status based on his

1 marriage. He has made every effort to prevent his own death by being returned to
2 Iran.

3 On June 21, 2025, ICE agents came to Mr. Asadi-Eidivand's door seeking
4 him out and remained outside of his house despite being told to leave and come back
5 with a warrant. Mr. Asadi-Eidivand and his wife called 9-1-1 to report the distressing
6 occurrence.

7 Mr. Asadi-Eidivand was indicted on June 24, 2025, alleging violations of 18
8 U.S.C. §§ 922(g)(5) and 924(a)(8). At his arraignment and detention hearing on July
9 1, 2025, Mr. Asadi-Eidivand requested release on conditions. Dkt. 16; *see also* Ex.
10 A (transcript of hearing). Magistrate Judge Bachus ordered him detained, finding
11 that the government had met its burden of proving by a preponderance of the
12 evidence that Mr. Asadi-Eidivand was a serious risk of flight and of proving by clear
13 and convincing evidence that he is a danger to the community. Dkt. 12.

14 This appeal follows.

15 **II. Applicable Law**

16 Section 3145(b) of Bail Reform Act says that “[i]f a person is ordered detained
17 by a magistrate, . . . the person may file, with the court having original jurisdiction
18 over the offense, a motion for revocation or amendment of the order. The motion
19 shall be determined promptly.” *See U.S. v. Fernandez-Alfonso*, 813 F.2d 1571 (9th
20 Cir. 1987) (holding that a thirty-day delay to review the magistrate's order was not
21 prompt within the meaning of § 3145(b)).

22 Ninth Circuit has held that when reviewing a detention order under the Bail
23 Reform Act, 18 U.S.C. § 3142, the standard of review requires the court to “bear in
24 mind that federal law has traditionally provided that a person arrested for a
25 noncapital offense shall be admitted to bail. Only in *rare circumstances* should
26 release be denied.” *United States v. Motamedi*, 767 F.2d 1403, 1405 (9th Cir. 1985)
27 (creating a presumption of release for nonviolent offenses and for offenses not
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1 requiring mandatory-minimums) (emphasis added); *see also United States v.*
2 *Salerno*, 481 U.S. 739, 750 (1987).

3 When reviewing an order of detention, “the district court is to make its own
4 ‘*de novo*’ determination of facts, whether different from or an adoption of the
5 findings of the magistrate.” *United States v. Koenig*, 912 F.2d 1190, 1193 (9th Cir.
6 1990). “[T]he district court’s review of a magistrate’s detention order is to be
7 conducted without deference to the magistrate’s factual findings.” *Id.* at 1192. “The
8 mere adoption of the magistrate’s findings is insufficient. *United States v. Hurtado*,
9 779 F.2d 1467, 1480-81 (11th Cir. 1985); *see also Koenig*, 912 F.2d at 1192-93
10 (9th Cir. 1990) (district court should consider facts independently and review *de*
11 *novo* the magistrate’s legal conclusions).

12 The instant case does not implicate a “rare circumstance” that justifies
13 detention. *See Motamedi*, 767 F.2d at 1405. Because pretrial detention is meant to
14 capture only a small number of truly dangerous individuals for whom no conditions
15 of release will be sufficient to protect the public, Mr. Asadi-Eidivand respectfully
16 requests this Court to order him released on conditions.

17 **III. Argument**

18 *a. Mr. Asadi-Eidivand is not a flight risk.*

19 Mr. Asadi-Eidivand is a 41-year old man who was born in Iran. He may have
20 ties to a foreign country, but flight to that country is not a legitimate concern. He
21 specifically fled Iran due to his religious beliefs, which clashed with the Iranian
22 government. He feared torture and death, so he sought asylum and other forms of
23 immigration relief in the United States in 2012.

24 Since 2012, Mr. Asadi-Eidivand has not left the United States to any other
25 country. He chose to make a quiet and humble life in the United States to live freely
26 from fear. He married his wife and got into business by opening up a number of car
27 dealerships. He was not employed at the time of arrest, but he had savings, with
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1 which he used to live. He does not have any other place to flee, nor does he have
2 incentive to flee, especially to Iran.

3 *b. Mr. Asadi-Eidivand is not a danger.*

4 Mr. Asadi-Eidivand was also detained as a danger based almost entirely on
5 the nature of the circumstances and the weight of the evidence. This is the least
6 important factor in the Bail Reform Act. *United States v. Townsend*, 897 F.2d 989,
7 994 (9th Cir. 1990). Mr. Asadi-Eidivand is presumed innocent unless the
8 government proves its case beyond a reasonable doubt.

9 In any event, the evidence shows that Mr. Asadi-Eidivand is not a danger and
10 there are conditions to alleviate any concerns that the government or the Court may
11 have. Mr. Asadi-Eidivand has no prior criminal record—no arrests, no charges, no
12 convictions. He has no concerns with physical health, and no concerns with his
13 mental health. He is neither a terrorist, nor does he have any links to terrorism-related
14 activities. There is nothing to indicate that he is a danger.

15 Even based off the allegations in the complaint, there is no indication that Mr.
16 Asadi-Eidivand is a danger. There is no indication that he made any types of threats
17 (otherwise, he would likely have been charged accordingly). There was nothing that
18 pointed to Mr. Asadi-Eidivand himself actually wielding a gun or that he was
19 threatening to shoot anyone. In fact, it was he who was deescalating the situation, as
20 described by the 9-1-1 dispatcher. Mr. Asadi-Eidivand is clearly not a danger.

21 **IV. Detention Hearing Requested**

22 The Court is to fashion the “least restrictive” conditions or combinations of
23 conditions under the Bail Reform Act to “reasonably assure” a defendant’s
24 appearance as required and the safety of the community. 18 U.S.C. § 3142(c). This
25 Court does not look for ironclad guarantees of future appearances here. *See United*
26 *States v. Gentry*, 455 F. Supp. 2d 1018, 1032 (D. Ariz. 2006) (citing *United States*
27 *v. Himler*, 797 F.2d 156 (3d Cir. 1986)).
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1 Mr. Asadi-Eidivand requests that the Court reconsider the findings of the
2 lower court, and that a detention hearing be set promptly, to order his release on
3 conditions. *See U.S. v. Fernandez-Alfonso*, 813 F.2d 157.

4 Respectfully submitted: July 15, 2025.

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